



# Asymmetric Migration

*Stowaways, absconders, and deserters.*

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Asymmetric migration—stowaways, absconders, and deserters—is not only an immigration problem, but a port security problem as well. U.S. Customs & Border

Protection (CBP) and the Bureau of Immigration and Customs Enforcement (ICE) are the agencies with primary responsibility for deterring, responding to, and

taking remedial action for illegal entry, even in U.S. maritime ports. The Coast Guard has been working in close cooperation with CBP and ICE to combat the problem of asymmetric migration, not only to support other agencies in enforcing U.S. immigration laws and preserve the right of the United States to control its borders, but also to address the port security risk represented by these illegal migrants.

Generally, an absconder is a crewmember who, without legal authority, lands in the United States. A deserter is a crewmember who is permitted to land in the United States but overstays the legal authority to remain. A stowaway is a person who is secreted on a ship without the consent of the ship and who is detected onboard the ship after it has departed from a port.

Some crewmembers are further characterized as a high-risk, detain onboard crewmember or high-risk crewmember. This is a crewmember who has been denied permission to land in the United States and is a national of a country listed in the Coast Guard/CBP Standard Operating Procedures for responding to high-risk crewmembers.

## ANNEX I

### Minimum Standards for Contracted Crewmember Security Services

Contracted security guards who are not designated state or local law enforcement officers must provide full name and date of birth to CBP [Customs & Border Protection]. CBP will conduct a background check using CBP automated enforcement systems.

Contracted security services must meet or exceed the following standards to demonstrate competency and adequacy to perform the assigned task:

1. Contracted security guards must be armed with a firearm while on duty, consistent with the requirements and conditions of the facility, and the laws and regulations of local, state, and federal authorities. This includes proper credentialing, licensing, and permitting, as applicable.
2. Contracted security guards must display proper identification at all times, such as a laminated badge with a photograph that clearly identifies them as part of the contracted security service.
3. Contracted security guards must be fully apprised of all applicable use of force requirements and conditions within the particular jurisdiction, including requirements and conditions for use of force imposed by the facility.
4. Contracted security assigned to provide security services are to ensure that only those crewmembers authorized to disembark are allowed to do so. Pursuit of fleeing crewmembers and use of force in such situations must comply with the requirements and conditions of the facility, and the laws and regulations of local, state, and federal authorities.
5. Security services must be contracted before the vessel is given permission to enter port. Contract must ensure the security services are in place before the vessel is allowed to moor or anchor in close proximity to land.

6. Security services must have a copy of the entire crew list, with the names of those who are not authorized to go ashore highlighted. The security services must verify the identity of any subject requesting to come ashore, checking the subject's stated name against that found on the passport and/or seaman's book with proper VISA, and checking the subject's physical appearance against those descriptors found in the document presented and against the photograph on the identity document.

7. Contracted security guards assigned to provide security services at vessels on which CBP has detained crewmembers shall be capable of communicating with the facility security, police, security dispatcher, local CBP, local USCG, and vessel agent. Contracted security guards shall provide their own communications as part of the contractual agreement between the ship's agent and the security company as dictated by the situation. For example, if the terminal has a 24-hour operations center, radio communications may be appropriate; otherwise a cellular telephone or functional equivalent may be required.

8. Contracted security guards must be provided with sufficient shelter to protect against severe weather conditions such as high heat, oppressive sunshine, and extreme cold. The shelter must be in the immediate vicinity of the gangway but should not be so obstructed as to prevent the security guards from performing their assigned duties.

9. Contracted security guards must be provided with periodic breaks to use the restroom and eat meals at intervals not to exceed 4 hours, and no guard may stand watch for more than 12 hours in a 24-hour period.

10. Contracted security guards must have written operating procedures and contact numbers readily available. See Annex II for a sample format.

## Stowaways

The Coast Guard takes the presence of a stowaway seriously. The presence of a stowaway indicates a security incident has occurred in which a person has improperly gained access to the vessel, circumventing vessel access control procedures. Clear grounds also exist that the vessel does not comply with Coast Guard maritime security regulations or the maritime security provisions of Chapter XI-2 of the International Convention for the Safety of Life at Sea (SOLAS) and the International Ship & Port Facility Security (ISPS) Code.

Coast Guard units take appropriate action to ensure that the security, rights, and obligations of the United States are protected. This analysis includes an examination of actions taken by the vessel to detect, detain, and report the presence of stowaways prior to port entry, efforts that may reduce the security risk posed by the stowaway.

The Coast Guard stowaway response policy has two aspects: responding to stowaways present on vessels and addressing the security issues in the ports where stowaways originate. Response actions in a stowaway case are based on the facts and circumstances in each case. These actions also include Coast Guard and interagency boardings; regulatory compliance examinations, either for compliance with the ISPS Code or 33 C.F.R. part 104, to determine any deficiencies in the ship security system; support of CBP/ICE criminal investigations; and ensuring adequate security if the stowaway remains on board for repatriation.

With regard to the source of stowaways, the Coast Guard stowaway response policy includes provisions to increase scrutiny for vessels arriving from ports that generate significant numbers of stowaways. It also includes outreach efforts to the governments of source countries, through the Coast Guard International Port Security Program, to improve the security in those ports.

## Absconders and High-Risk Crewmembers

To respond to the problem of high-risk crewmembers, the Coast Guard and CBP have entered into "Memorandum of Agreement Regarding the Detention of Certain High-Risk Crewmembers," which came into force December 22, 2004. The purpose of the MOA and its accompanying standard operating procedures (SOP) is to provide consistent, nationwide guidance; it also defines the respective roles of the Coast Guard and CBP regarding preventing high-risk, detain-onboard crewmembers from

## ANNEX II

### Standard Operating Procedure For Contracted Crewmember Security

1. Security services must be in place before vessel arrives pier-side or onboard as per COTP Order.
2. Security services must have a complete crew list identifying those crewmembers that are not authorized to go ashore.
3. Security services must maintain a detailed log (times, reasons, etc.) of all persons going aboard and going ashore.
4. A muster of all individuals that are not authorized to go ashore shall be conducted every 4 hours.
5. Security services must have a communications plan that allows effective and continuous communications with appropriate security officials, to include the following:
  - a. Facility Security (Contact frequency or telephone number)  
(If applicable)
  - b. Police (Local phone number)
  - c. Contract Security (Contact frequency or telephone number)  
Dispatcher
  - d. CBP (Local phone number)
  - e. Coast Guard (Local phone number)
  - f. Agent (Local phone number)
  - g. FBI (Local phone number)
  - h. ICE (Local phone number)Consideration should be given to the need for language services to ensure that security personnel can properly communicate with the above officials and crew, especially high-risk crewmembers.
6. Valid crew must present proper documentation and must be cross-checked against the crew list provided by CBP. Only those crewmembers identified as being in D-1 or D-2 status are permitted to disembark the vessel. Questions related to whether a particular crewmember is allowed to disembark shall be forwarded to the ship's agent and, if necessary, CBP.
7. Non-crew, with proper identification, may board and leave the vessel. This may include vendors and service providers contracted to the ship (i.e., stevedores, agents).
8. Any attempt to disembark a vessel by persons not authorized to land (including stowaways) shall be reported immediately to local security services (facility guard posts, facility managers), CBP, USCG, ICE, FBI, local police department(s), and the vessel's agent.
9. If unauthorized individuals successfully disembark the vessel, contracted security services must immediately contact the agencies above, providing name, description, and circumstances surrounding the situation. If possible, contracted security services should coordinate with facility security personnel to locate and retrieve the absconding crewmember within the port facility.

leaving their vessel and illegally entering the United States. Portions of the SOP are designated sensitive security information and are not available for public release.

CBP determines whether a foreign crewmember will be allowed to disembark a vessel upon its arrival into the United States. Foreign crewmembers may be denied temporary permission to land in the United States for a variety of reasons. When a crewmember has been denied temporary permission to land in the United States and poses a high security risk to the port, the Coast Guard may assist CBP by ensuring that the master, owner, agent, and/or operator of the vessel has provided effective security measures to keep the identified high-risk, detain onboard crewmember from gaining illegal entry into the United States.

The SOP provides guidance for coordinating CBP and Coast Guard efforts to identify high-risk crewmembers and ensure that effective security measures are

## ANNEX VI

Countries From 68 FR  
2363, 16 January 2003

AFGHANISTAN  
ALGERIA  
BAHRAIN  
BANGLADESH  
EGYPT  
ERITREA  
INDONESIA  
IRAN  
IRAQ  
JORDAN  
KUWAIT  
LEBANON  
LIBYA  
MOROCCO  
NORTH KOREA  
OMAN  
PAKISTAN  
QATAR  
SAUDI ARABIA  
SOMALIA  
SUDAN  
SYRIA  
TUNISIA  
UNITED ARAB EMIRATES  
YEMEN

**Total: 25 countries**

put in place to prevent such crewmembers from gaining illegal entry into the United States. Furthermore, intelligence about a particular vessel, crewmember, or other circumstances may warrant implementation of other procedures, enforcement measures, or requirements similar to those of the SOP.

Annex I to the SOP is the minimum standards for contracted crewmember security services. Annex II to the SOP is the Standard Operating Procedures for Contracted Crewmember Security.

Annex VI of the SOP contains a list of countries from the Federal Register published at 68 FR 2363. Aliens from these countries have been determined to warrant additional monitoring in the interest of national security. Under the terms of the SOP, CBP will order the master to detain onboard any crewmember that is an alien from an Annex VI country—or that intelligence suggests is a risk to security—and that has not been permitted to land in

the United States. The Coast Guard will provide the necessary enforcement authority to ensure that the vessel master, owner, agent, or operator has established effective security measures (Annexes I and II) to prevent high-risk crewmembers from absconding and damaging or threatening the port.

Local or regional plans and procedures implementing the SOP are acceptable as agreed upon in writing by local Captains of the Port (COTPs), CBP Port Directors, and CBP Border Patrol Chief Patrol Agents where assigned. COTPs, Port Directors, and Chief Patrol Agents retain discretion to modify security measures and plans as the situation dictates and may consider alternatives offered by the vessel's master or owner/operator that would provide an equivalent level of security to ensure that high-risk crewmembers are detained onboard. It is expected that security plans will not conflict with applicable laws or regulations.

In certain circumstances the terms of the SOP and requirements for contracted crew security may be extended to vessels with crewmembers who are not nationals of the countries identified by the SOP. These cases usually involve vessel owner/operators who have had significant patterns of absconders from their vessels.

## Deserters

Coast Guard policy is that the vessel must report a desertion and update its notice of arrival information to reflect the changed crew. By regulation, 8 C.F.R. § 251.2, the vessel is also required to report deserters to CBP.

Deserters are crewmembers who have a valid visa and are permitted to land in the United States but fail to return to their vessel and depart as required. These crewmembers have gone through a pre-screening process that each crewmember must undergo prior to being permitted to land in the United States. Each crewmember must obtain a travel document such as a passport from his or her country and a visa from the Department of State. Each crewmember's name is compared against numerous criminal databases from the notice of arrival information provided to both CBP and the Coast Guard. Finally, each crewmember must undergo inspection by a CBP officer upon arrival and must be given specific authorization to land. CBP considers the vessel's history—with particular regard to deserters and absconders—in determining if a crewmember is permitted to land. CBP will only permit the crewmember to land if it determines that, in the unlikely event that he deserts, he will still not pose a security risk to the United States.

With regard to crewmembers that CBP has permitted to land in the United States, the Coast Guard generally takes no action. CBP has determined that these crewmembers pose an acceptable risk to the United States and, therefore, permit the crewmembers to land. If the vessel or its owner/operator has a recent history or pattern of deserters, Coast Guard action is normally not warranted, aside from notifying CBP of the pattern. Because the previous deserters were permitted to land and because CBP determined that the crewmember under consideration likewise is permitted to land, the crewmember does not pose a security risk to the United States.

Nevertheless, a significant pattern of desertion does elevate the security risk posed by the vessel, and Coast Guard policy recognizes this by allowing COTPs to require crew security plans for a 12-month period as with elevated risk absconders. A local Coast Guard commander may impose additional requirements in consultation with CBP if, after analyzing the facts and circumstances of a particular case, additional measures are determined to be necessary to ensure the security of the United States or to secure the rights and obligations of the United States.

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